

SHOP SAFE ACT

protects U.S. consumers from fraudulent and stolen goods sold through online marketplaces.

Frequently Asked Questions

Q: What does SHOP SAFE do?

A: SHOP SAFE requires screening for illicit goods in e-commerce, improved third party seller transparency, and accountability for online platforms who sell unsafe goods. The measure holds online platforms contributorily liable if they do not put best practices into place to prevent the sale of counterfeit product that puts the health and safety of the consumer at risk.

Q: What are third-party sellers required to do under SHOP SAFE?

A: SHOP SAFE requires third-party sellers to agree not to use a counterfeit mark to sell, distribute, or advertise goods, and to only use images that accurately depict goods on the platform. Third-party sellers would also have to provide platforms with the following information: verified place of business, contact info, identity and country from which goods were shipped. Third-party sellers of products with a registered mark must take reasonable steps to verify the authenticity of the goods.

Q: Does SHOP SAFE target small businesses and individual sellers?

A: No. SHOP SAFE specifically includes an exemption for small or personal sales. Section (4)(C) states that *“platform is exempt from the requirements of such clauses for goods, on or in connection with which a registered mark is used, sold, offered for sale, or advertised by a third-party seller for less than \$5,000 if the third-party seller sells, offers for sale, or advertises on the platform 5 or fewer goods of the same type in connection with the same mark in a 1-year period.”*

Q: Do requirements in SHOP SAFE violate the privacy of small business owners?

A: No. SHOP SAFE protects privacy and personal identities of small businesses. *“Platforms would be required to publish third party seller information except for “information that constitutes the personal identity of an individual, a residential street address, or personal contact information of an individual.”*

Q: What products does SHOP SAFE apply to? Arts and crafts sold online? Resale of personal collectibles?

A: SHOP SAFE only applies to products that impact health or safety. The bill states that products that impact health and safety be defined *“as goods that can lead to illness, disease, injury, seriously adverse event, allergic reaction, or death if produced without compliance with health and safety regulations and industry standards (ex. testing, safety, labeling, etc.)”*

Q: Does SHOP SAFE target big businesses or small businesses?

A: Neither. SHOP SAFE targets illegitimate sellers and seeks to hold platforms who give them access to consumers accountable. The bill recognizes that online platforms have different resources in screening for illicit goods and states *“the determination of whether proactive measures are reasonable shall consider the size and resources of a platform, the available technological and non-technological solutions at the time of screening, the information provided by the registrant to the platform, and any other factor considered relevant by a court.”*

Q: Does SHOP SAFE require platforms to do anything beyond what brick-and-mortar retailers are required to do to sell goods?

A: No. SHOP SAFE would be the first step in bringing online retailer accountability closer in alignment with brick & mortar retailers. The bill does not ask the online platforms for anything beyond what physical retailers have been providing for years.

Q: Would SHOP SAFE would result in less choice for consumers?

A: No. According to OpSec’s [2021 Consumer Confidence Barometer](#), “59% of consumers feel it has become harder to spot counterfeits in the last 12 months. Illness, injury and fraud are among the ill effects experienced by 87% of consumers who have unintentionally bought a counterfeit product”. Rather than resulting in less choice for consumers, SHOP SAFE would give consumers the confidence that they are shopping for legitimate products online and the certainty that they are not unknowingly purchasing a product that could cause harm to them or their family.

Q: Who supports SHOP SAFE and why is this legislation a good way to address the issue of counterfeit and unsafe goods in e-commerce?

A: SHOP SAFE is supported by a coalition of businesses and organizations representing manufacturers of consumer products including small, US-based businesses and those with significant footprints in the United States. SHOP SAFE will provide transparency, screening, and the accountability needed to protect consumers from the risk of unsafe counterfeits and other illicit goods online, and to protect brand owners including small businesses from having to divert their resources from key business functions to fight illegitimate sellers.

Q: Why is SHOP SAFE necessary if INFORM Consumers Act passes?

A: Without SHOP SAFE, e-commerce platforms are not held properly liable. Without INFORM, law enforcement lacks vital tools to go after criminals. Thus, both legislative proposals are needed.

The legislation would require online platforms to vet sellers before allowing them to sell and provide consumers with more information about who they are buying from so they can make informed decisions and protect their personal data. Both SHOP SAFE and the INFORM Consumers Acts are bipartisan and bicameral.

More information and background materials on the SHOP SAFE Act and the issues and impacts of counterfeit and illicit goods in e-commerce can be found [here](#).